



STATE OF NEW HAMPSHIRE BOARD OF MEDICINE NEWSLETTER

SUMMER-FALL 2013

Prescription Monitoring Program Moving Forward

In June 2012, then-Governor Lynch signed the Prescription Monitoring Program bill into law, launching a large scale effort into making NH the 49th state to implement a Prescription Drug Monitoring Program. An Advisory Council of voluntary members has been working hard for the past year to develop rules, hire a vendor and attend to all details necessary to get the program up and running.

Licensees of the Board of Medicine will be required by law to register with the Prescription Monitoring Program. Details of how the registration process will work are being developed and will be reported to licensees shortly.

The Board encourages all licensees to register and then utilize what should be a valuable tool in helping practitioners to avoid patients who attempt to get unnecessary or excessive prescriptions.

FYI: The law governing the Board of Medicine is found at RSA 329 and is known as the Medical Practice Act. The Board is also governed by administrative rules that guide the application of the statutes. The full text of the laws and rules can be found at the Board's website at www.nh.gov/medicine/laws. Changes in the Board's rules were highlighted in Summer/Fall 2011 edition of the newsletter. See the Winter 2011 edition of the newsletter for the recent changes to the Medical Practice Act. Both newsletters can also be found at www.nh.gov/medicine/publications.

My Family Member Needs Some Medical Care... Should I Treat Them, or Should I Refer Them to Another Physician?

Every two years, physicians renew their medical license to practice in the State of New Hampshire. When doing this, licensees sign a statement that says: "I acknowledge that I am governed by the Medical Practice Act (RSA 329), the New Hampshire Code of Administrative Rules (Med 100-500), and the American Medical Association's Code of Medical Ethics." So, what does the AMA Code of Medical Ethics have to say about treating family members?

Writing Prescriptions for Yourself or Family Members

Opinion 8.19 Self-Treatment or Treatment of Immediate Family Members states "Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician's professional relationship with a family member, perhaps as a result of a negative medical outcome, such

difficulties may be carried over into the family member's personal relationship with the physician. Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician. In particular, minor children will generally not feel free to refuse care from their parents. Likewise, physicians may feel obligated to provide care to immediate family members even if they feel uncomfortable providing care.

It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitate to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems.

Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members.”

Never prescribe controlled substances for yourself or your family members.

MRSC Welcomes New Public Member

Linda Tatarczuch served as a public member of the MRSC from June 2007 until June 2013. As members are limited to two consecutive terms, Ms. Tatarczuch finished her service on the MRSC when her term expired in June. The Board of Medicine thanks Ms. Tatarczuch for her many years of dedicated service to the committee. Patricia Sherman, a retired architect and current chair of the Real Estate Appraisers Board will replace Ms. Tatarczuch as a public member on the MRSC beginning in August 2013.

Medical Records

Recently the Board has reviewed the issue of patient's requests for medical records. To better educate practitioners on their obligations, here are some of the Board's rules and laws as they pertain to medical records.

Under state law, RSA 332-I, patients are allowed to obtain a copy of their medical records for a limited charge. Specifically, RSA 332-I:1 states that medical information contained in the medical records of any health care provider shall be deemed to be the property of the patient. The patient shall be entitled to a copy of his or her records upon request. The charge for copying a patient's medical records shall not exceed \$15.00 for the first 30 pages or \$.50 per page, whichever is greater. Under NH Board of Medicine rules, a licensee shall retain a copy of all patient medical records for at least 7 years from the date of the patient's last contact with the licensee, unless, before that date the patient has requested that the file be transferred to another health care provider.

The rules also state that if a request for the transfer of medical records is made, it shall not be delayed, including for non-payment of services or non-payment of copying costs and of costs for transmitting of medical records and shall be accomplished in any case within 30 days from the receipt of the signed release, unless the nature of the medical treatment requires an immediate response from the licensee.

NEW LAW, PLEASE TAKE NOTE:

Pursuant to RSA329:16-f, II, all licensees shall provide the board with a copy of any notice of complaint, action for medical injury, or claim received from or disciplinary action taken in a jurisdiction outside of this state within 30 days of receipt of such notice or action.

Board of Medicine Presentations

Members of the Board of Medicine have been travelling around the state speaking with medical staffs at various hospitals. If you would like some of our Board or MRSC members to come and speak at your medical staff meeting about the Board and its work, contact the Board's Executive Director, Kathryn Bradley at 271-6985 or kathryn.bradley@nh.gov to arrange for a presentation at your next medical staff meeting.

Have any ideas, suggestions or comments about the newsletter, email them to kathryn.bradley@nh.gov.

Free Online Continuing Medical Education Opportunity

The Federation of State Medical Boards has partnered with Boston University School of Medicine CME to provide free, online education in a program entitled "Safe and Competent Opioid Prescribing Education of Pain (SCOPE)".

The program is available at www.scopeofpain.com and is a free educational program that has been accredited for a maximum of 3.0 AMA PRA Category 1 Credits. It is comprised of three (3) educational modules that must be completed in order for the learner to earn their online certificate of credit.

Educational initiatives such as this collaboration are crucial in raising awareness with physicians of the risks opioids pose, while providing a framework to ensure physicians who prescribe opioids do so responsibly and safely.

The Medical Review Subcommittee needs assistance from time to time in its review of the standard of care in its investigations of licensees. The work involved includes a complete review of medical records and the writing of an expert report on your findings. If you are interested in considering this opportunity (CME Category 2 credit may be available for the work), contact Dr. Douglas Black at (603)271-6930.

Recent Disciplinary Action Taken by the Board

The following are the public disciplinary actions that were taken by the Board of Medicine between February 1, 2013 and August 1, 2013.

2/6/13 Thomas D. Wells, D.O. The Board of Medicine approved a Settlement Agreement for Dr. Thomas D. Wells. The Board received information relating to allegations of professional misconduct. On or about March 7, 2009, Dr. Wells was arrested and charged with simple assault for punching his thirteen-year old son in the face and was later convicted of simple assault. After this incident, Dr. Wells voluntarily entered into a contract with NHPHP to address behavioral and substance abuse issues, which he completed. While working as an emergency room physician, concerns were raised that led to his going on medical leave. On his 2010 renewal, Dr. Wells provided inaccurate information concerning his illness and medical leave. He is reprimanded and shall undergo a complete assessment of his clinical skills at KSTAR. The Preliminary Agreement for Practice Restrictions, issued June 8, 2010, shall remain in effect until further order of the Board and shall not be vacated until the KSTAR Program approves his return to the practice of medicine.

2/8/13 Michael P. DiPre, M.D. The Board of Medicine issued a Settlement Agreement for Michael P. DiPre, M.D. based on allegations of inappropriate prescribing of narcotics, as well as failure to adequately monitor and document treatment of pain patients being prescribed narcotics. Dr. DiPre's controlled drug prescribing privileges are suspended for three years, starting from the date of issuance of the Settlement Agreement. The term "controlled drug" refers to any and all drugs contained in the Federal Controlled Substance Schedule. Dr. DiPre shall participate in a global assessment of his ability and skills as a physician conducted by Center for Personalized Education for Physicians ("CPEP") or by Acumen Assessments.

2/14/13 William D. Foord, M.D. The Board of Medicine issued an Order of Emergency Suspension of Prescribing Privileges and Notice of Hearing. The Board has received information indicating that

the continued prescribing of all controlled substances, specifically scheduled drugs II, III, IV and V by Dr. Foord presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Foord's prescribing privileges pending a hearing that is scheduled for February 20, 2013.

2/21/13 **William D. Foord, M.D.** The Board of Medicine approved a Preliminary Agreement for Practice Restrictions for William D. Foord, M.D. Dr. Foord has professional misconduct allegations pending before the Board. Dr. Foord voluntarily agrees not to prescribe any controlled substances, specifically scheduled drugs II, III, IV, and V to any person in the State of New Hampshire until further notice.

4/8/13 **Dan W. Joachim, M.D.** The Board of Medicine issued a Final Decision and Order on Dan W. Joachim, M.D. Dr. Joachim engaged in professional misconduct when he was convicted of felony level receipt of child pornography charges in violation of RSA 329:17, VI(j). Dr. Joachim's license to practice medicine in the State of New Hampshire is revoked.

5/3/13 **Kevin M. Kendall, M.D.** The Board of Medicine accepted Dr. Kevin M. Kendall's voluntary surrender of his New Hampshire medical license due to pending disciplinary charges arising out of an incident where he reported to work while impaired and then hit a wooden object after leaving the hospital.

5/3/13 **Jeffrey D. Rosen, M.D.** The Board of Medicine accepted Dr. Jeffrey D. Rosen's voluntary surrender of his New Hampshire medical license which occurred in settlement of pending disciplinary charges arising out of the denial of his application for licensure by the State of Vermont Medical Board and the subsequent voluntary surrender of his medical license in the State of West Virginia based on the Vermont Board's licensure denial. The Vermont Medical Board's denial was based on that State's finding that Dr. Rosen had mischaracterized a response to a Board Investigator's inquiry regarding the termination of Dr. Rosen's employment at the Women's Health Center of West Virginia.

5/3/13 **Mark E. Splaine, M.D.** The Board of Medicine accepted Dr. Mark E. Splaine's voluntary surrender of his New Hampshire medical license in lieu of disciplinary action. Dr. Splaine failed to maintain medical records for over 2,000 patients he encountered while practicing medicine. Dr. Splaine was ordered to complete certain continuing medical education credits within a specified time and provide the Board with proof of completion from a previous order. Dr. Splaine failed to provide that proof to the Board.

5/8/13 **Don A. Holshuh, M.D.** The Board of Medicine issued a Final Decision and Order for Don A. Holshuh, M.D. Dr. Holshuh engaged in professional misconduct by attempting to order prescription drugs from a drug wholesaler for personal use while his medical license was under suspension. Dr. Holshuh's license is revoked and he shall pay an administrative fine of three thousand dollars.

6/7/13 **James R. Frede, M.D.** The Board of Medicine accepted a Voluntary Surrender of License from James R. Frede, M.D. Dr. Frede relinquishes all rights and privileges to practice medicine in the State of New Hampshire. The Voluntary Surrender of License is in settlement of the professional misconduct allegations against Dr. Frede before the Board concerning prescribing of non-controlled substances for patients over the internet.

7/9/13 **Kenneth Leong, M.D.** The Board of Medicine issued an Order to dismiss the adjudicatory/disciplinary proceedings in Docket No. 12-16 regarding Dr. Kenneth Leong regarding an alleged failure to cooperate with the Board and allow Dr. Leong to respond to the claim and the Board to continue its investigation of that claim.

7/10/13 **Jonathan B. Warach, M.D.** The Board of Medicine issued an Agreement for Non-Disciplinary Remedial Action for Dr. Warach. On March 6, 2012, the Board approved a Preliminary Agreement Not to Practice Medicine. Recently, the Board received and reviewed information pertaining to Dr. Warach's neurological conditions. Dr. Warach is afflicted by a neurological disability that impairs his ability to safely practice medicine. As a

non-disciplinary remedial action pursuant to RSA 329:17, VI-a, Dr. Warach's license to practice medicine is revoked.

7/18/13 **Hasan A. Duymazlar, D.O.** The Board of Medicine issued an Order of Emergency License Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Duymazlar presently poses an imminent threat to life, safety and/or health which warrants the temporary suspension or Dr. Duymuzlar's license to practice medicine pending a hearing that is scheduled for July 26, 2013.

7/19/13 **Hasan A. Duymazlar, D.O.** The Board of Medicine accepted a Voluntary Surrender of License from Hasan A. Duymazlar, D.O. Dr. Duymazlar relinquishes all rights and privileges to practice medicine in the State of New Hampshire. Before the Board are allegations that Dr. Duymuzlar wrote a fraudulent prescription for Oxycodone and had it filled at a pharmacy in New Hampshire.

7/19/13 **Charlene G. Sanders, M.D.** The Board of Medicine issued a Final Decision and Order of Denial for Dr. Sanders' application to practice medicine in New Hampshire. Dr. Sanders applied for privileges at Elliot Hospital and during the application process Dr. Sanders provided false information during the credentialing process which raised questions about Dr. Sanders' judgment.

A reminder that pursuant to RSA 329:16-f, I, all licensees must maintain a current business address on file with the Board. Any changes in your address shall be reported to the Board within 30 days from the date of the change. Changes can be sent to sharon.hebert@nh.gov.

New Hampshire Board of Medicine Mission Statement

To protect the public from the unprofessional, incompetent, or impaired practice of medicine. The Board of Medicine issues licenses to qualified Allopathic and Osteopathic physicians and physician assistants based on recognized credentialing standards. The Board regulates the minimum standards of professional conduct and continued competence and takes disciplinary action against licensees who fail to meet these standards.

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